

**Department of State  
Division of Publications**

312 Rosa L. Parks, 8th Floor Snodgrass Tower  
Nashville, TN 37243  
Phone: 615.741.2650  
Fax: 615.741.5133  
Email: sos.information@state.tn.us

**For Department of State Use Only**

Sequence Number: \_\_\_\_\_

Notice ID(s): \_\_\_\_\_

File Date: \_\_\_\_\_

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Department of Human Services
<b>Division:</b>	Child Support Services
<b>Contact Person:</b>	Barbara Broersma
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 10 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	barbara.broersma@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Jeffrey Blackshear
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 10 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	jeffrey.blackshear@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Citizens Plaza Building 2 <sup>nd</sup> Floor Board Room 400 Deaderick Street		
Address 2:			
City:	Nashville		
Zip:	37243-1403		
Hearing Date :	08/17/09		
Hearing Time:	6:30 PM	X CST	EST

Address 1:	2 <sup>nd</sup> Floor Auditorium Donnelly J. Hill State Office Building 170 North Main Street		
Address 2:			
City:	Memphis		
Zip:	38103		
Hearing Date :	08/20/09		
Hearing Time:	6:30 PM	X CST	EST

Address 1:	Conference Room A, 7th Floor 531 Henley Street		
Address 2:			
City:	Knoxville		
Zip:	37902		
Hearing Date :	08/20/09		
Hearing Time:	6:30 PM	<input type="checkbox"/> CST <input checked="" type="checkbox"/> EST	

**Additional Hearing Information:**

--

**Revision Type (check all that apply):**

☒ Amendment  
☐ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
1240-02-05	Liens for Child Support
Rule Number	Rule Title
1240-02-05-.02	Definitions
1240-02-05-.13	Due Process Procedures
1240-02-05-.16	Child Support Lien Notice and Instructions

Chapter Number	Chapter Title
Rule Number	Rule Title

Chapter Number	Chapter Title
Rule Number	Rule Title

## Substance of Proposed Rules

### 1240-02-05 Liens for Child Support

#### Amendments

Rule 1240-02-05-.02 Definitions, is amended by deleting the references "T.C.A. §36-5-101(a)(5)" and "Tennessee Code Annotated, Section 36-5-101(a)(5)" in paragraph (2) and subparagraph (2)(a) respectively, and substituting instead the reference "T.C.A. § 36-5-101(f)(1)"; and by deleting the reference to subsection 36-5-101(g) in paragraph (2) and substituting instead the reference to subsection 36-5-501(g) and by adding the phrase "thus the date payment is made is affected by the operation of the income assignment" so that, as amended, paragraph (2) shall read as follows:

- (2) "Arrears" or "Arrearage" means any occasion on which the full amount of support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. 654A(4), is not paid by the due date which causes the support to become "in arrears" as defined in T.C.A. § 36-5-101(f)(1), unless an income assignment is in effect and the payer of income is paying pursuant to subsection § 36-5-501(g) thus the date payment is made is affected by the operation of the income assignment.
- (a) T.C.A. § 36-5-101(f)(1) defines "in arrears" as the circumstances existing when the full amount of child support is not paid by the date upon which the ordered support is due. The unpaid amount at that time is "in arrears, and shall become a judgment for the unpaid amounts.
- (b) Arrears or arrearage may also be known as and referred to in these rules as "overdue" support or "past-due" support.
- (c) Arrears shall include the totals of all amounts of support that are not paid and that remain unpaid by the obligor at the time a lien is perfected, or which become due as arrears subsequent to the perfection of the lien.

Rule 1240-02-05-.02 Definitions, is further amended by deleting the references "§ 36-5-101(a)(5)" in paragraph (13) and substituting instead the reference "T.C.A. § 36-5-101(f)(1)"; by deleting the reference to subsection "36-5-101(g)" and substituting instead the reference to subsection "36-5-501(g)"; and by deleting the references "1240-2-5-.02(b)" and substituting instead the reference "1240-02-05-.02(2)(b)", and by adding the phrase "thus the date payment is made is affected by the operation of the income assignment" so that, as amended, paragraph (13) shall read as follows:

- (13) (a) "Overdue support" means for purposes of this Chapter, any occasion on which the full amount of ordered support for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent spousal support would be included for the purposes of 42 U.S.C. § 654(4), is not paid by the due date for arrears as defined in T.C.A. § 36-5-101(f)(1) unless an income assignment is in effect and the payer of income is paying pursuant to § 36-5-501(g) ), thus the date payment is made is affected by the operation of the income assignment.
- (b) "Overdue support" shall include all amounts of support that are in arrears as defined in T.C.A. § 36-5-101(f)(1) and 1240-02-05-.02(2)(b) and that remain

unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.

- (c) The term “overdue support” may be used interchangeably with “arrears” or “past due support as described in 1240-02-05-.02(2)(b).

Authority: T.C.A. §§ 4-5-202; 36-5-901 et seq.; 36-5-912; 36-5-1001; 71-1-132; 29 U.S.C. §1056(d); 42 U.S.C. §§ 654a (a), (g) and (h); 659(i), and 666(c)(1)(G) and (c)(3).

Rule 1240-02-05-.13 Due Process Procedures, is amended by deleting the language in part (3)(a)1 and substituting instead new language so that, as amended, part (3)(a)1 shall read as follows:

1. Whether there is a mistake as to the identity of the persons or entities to whom the administrative action has been directed;

Authority: T.C.A. §§ 4-5-202; 36-5-901 et seq.; 36-5-907, and 36-5-912.

Rule 1240-02-05-.16 Child Support Lien Notice and Instructions, is amended by deleting the language in paragraph (2) and substituting instead new language so that, as amended, paragraph (2) shall read as follows:

- (2) Form.

The form, number OMB-0970-0153, and instructions are available in Adobe PDF at: <http://www.acf.hhs.gov/programs/cse/forms/> “Notice of Lien Form and Instructions”. This form is required by the United States Department of Health and Human Services (HHS) to be used when enforcing child support obligations by lien. It shall be used in intrastate and interstate cases.

Authority: T.C.A. §§ 4-5-202, 36-5-901 et seq., and 36-5-912; 42 U.S.C. §§ 652, 654(9)(E), and 666; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 01-06 (April 4, 2001) and Action Transmittal 05-04 (January 4, 2005).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: Barbara Broersma

Assistant General Counsel

Title of Officer: Tennessee Department of Human Service

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State